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Application Serial No. 10/694,654
Amendment filed September 26, 2006
Response to Office Action dated May 26, 2006

REMARKS

This Amendment is being filed in response to the Office Action dated May 26, 2006. Claims 1-36 are currently pending and stand rejected in the application. Of these, claims 1 and 20 are independent. By this Amendment, claims 1 and 20 are amended. Accordingly, claims 1-36 remain pending in this application. No new matter has been added. Applicants respectfully submit that the amendments to the pending claims have been made without prejudice and solely in order to better clarify the invention and not to limit or narrow the scope of these claims in any way. Applicants respectfully request reconsideration in light of the amendments and comments set forth herein, and respectfully maintain that this application is in condition for allowance.

The Invention as Claimed

Prior to addressing the rejections set forth in the April 6, 2006 Office Action, Applicants take this opportunity to set forth the following brief remarks in connection with their invention, which is directed to a ventilated cage and rack system, the rack having at least one canopy constructed and arranged to position one cage of a first width and/or a plurality of second cages having a second width less than the first width. Accordingly, the same canopy can be used for one or more cages, depending on the width of the cage.

Ventilated cage and rack systems are available in the art. However, due to the manner in which the cage is positioned within the rack, only cages of a single width may be accommodated by each rack available in the art. Therefore, if a laboratory needs cages of differing widths, for

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example, if an experiment requires animals of differing sizes, it is common for a laboratory to utilize different racks for each cage width.

One of the reasons why cages of different widths cannot be housed in a common ventilated cage and rack system is because the canopies under which the cages are positioned cannot accommodate more than one size cage. The construction and design of the canopies generally permit one cage to be positioned under the canopies to provide a proper fit between the side guides of the canopy. The canopies permit air to be drawn into the air exhaust plenum from the inside of the cage through the top of the cage, and preferably also permit ambient air to be drawn across the top of the cage into the air exhaust plenum. Because the canopies were constructed and designed to position a single cage under each canopy, each canopy corresponds to one coupling through which air can be introduced into the cage.

The inventors herein discovered a way to improve the efficiency of the ventilated cage and rack systems by providing a rack having canopies that can have a variety of differently sized cages positioned beneath it. For example, one canopy can have either a single wide cage or two narrow cages positioned under it, as shown in Fig. 6. Each canopy preferably corresponds to more than one coupler, and the wider cage preferably connects to more couplers than each narrower cage. Such an example is illustrated in Fig. 6, wherein the canopy includes two couplers (52), both of which are connected to the wide cage (123) and only one connects to the narrow cage (122).

In accordance with one embodiment shown in FIG. 8, the canopy can include a center channel, which can assist in positioning smaller cages and enhance ambient air flow across the

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top of the cage into the exhaust plenum. Without the center channel, the air above the cages would likely flow into the center channel area, and proper air flow from the cages can be difficult to maintain. This is because some air would not be channeled across the cage top, but would tend to flow in other directions.

Accordingly, the invention provides for cages of varying widths to be positioned in a common rack while maintaining proper air flow of air from inside the cage as well as the ambient air above the cage.

Rejection Under 35 U.S.C. §102

Claims 1, 3, 10-22, 24 and 26-36 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,158,387 to Gabriel et al ("Gabriel"). Applicants respectfully submit that not only does Gabriel fail to teach or suggest the invention as claimed, but in fact, the invention as claimed improves upon the teachings of Gabriel and addresses its shortcomings.

Gabriel is directed to a ventilated cage and rack system wherein each canopy can only accommodate a single width cage. A wider cage will not be able to fit between the side guides (33b, 35b). A narrower cage would have a gap between the cage and at least one of the side guides and thus the air flow above the cage would likely not be properly maintained. The same deficiency applies for a wider but shorter cage. Accordingly, Gabriel does not teach or suggest a ventilated cage and rack system having a canopy constructed and arranged to position a single wide cage or a plurality of narrower cages below the canopy.

In the Office Action, the Examiner refers to reference numbers 20a and 20b as a first cage having a first width and a second cage having a second width, respectively. However,

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Applicants respectfully point out that as illustrated in FIG. 1 of Gabriel, cages 20a and 20b have the same, not different, widths. This is consistent with the teachings of Gabriel, which does not disclose the invention as claimed.

Additionally, the Examiner cites to Col. 11, lines 63-67 and Col. 12, lines 1-8 as teaching cages of different widths. However, Applicants respectfully maintain that Gabriel does not discuss providing a canopy that can position cages having different widths beneath it. Gabriel does not mention different width of cages, but rather, mentions that “[i]t is possible to increase the area within the cage by extending the length of the cage, the depth of the cage.” (Col. 12, lines 1-3)(emphasis added). Accordingly, Gabriel does not teach or suggest altering the width of the cage. Rather, Gabriel mentions the possibility of increasing the length of the cage. The length, as apparent in Gabriel, is the dimension of the cage that extends along the depth of the rack, rather than the width of the rack. For example, Gabriel clarifies which dimension is referred to as the width, and states “[s]ide plates 33a and 35a are preferably disposed at a distance from each other which is substantially the same as or slightly greater than the width of filter cap 24.” (Col. 7, lines 5-8).

Furthermore, although Gabriel discloses the possibility of providing a cage having an extended length beneath the canopy, Gabriel never mentions or suggests positioning more than one cage under the canopy, as claimed herein. Applicants respectfully draw the Examiner’s attention to FIGS. 1 and 3 of Gabriel. As illustrated, the air exhaust plenum (42) and air supply plenum (40) run along the width of the rack located at the rear end of the cage. Therefore, the coupler (52) through which air is provided to the cage is only located at the rear end of the cage.

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Therefore, it would not have been obvious to place two cages under a single canopy in Gabriel. However, in the interest of clarity, Applicants amended independent claims 1 and 20 herein to clarify that the width of the cage, either alone or in combination with the widths of one or more cages, is "at or about the width of the canopy", and that the air exhaust plenum runs along "the width of the rack", wherein "the rack is constructed and arranged to support a plurality of cages along the width of the rack."

Gabriel further teaches away from providing cages of varying widths, and states:

By providing increasing the bottom area by extending the cage, it is possible to increase the number of animals within the cage without increasing the associated width or height so that rack and canopy systems as described above can accommodate both the conventional cage and the new larger cage.

(Col. 12, lines 3-8). According to Gabriel, it is desirable to extend the length of the cage in order to avoid increasing the width. Therefore, Gabriel asserts that by avoiding increasing the width, the same rack and canopy system can be used for both the conventional and larger cage, which illustrates that if the width was increased, it would not have been possible to use the same rack and canopy system for the wider cage.

At least for the reasons set forth above, Applicants respectfully submit that independent claims 1 and 20, and claims 3, 10-19, 21-22, 24 and 26-36 depending therefrom are not taught or suggested by Gabriel and are thus patentable over Gabriel. In the interest of brevity, the merits of the rejection of the dependent claims will not be addressed in detail.

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Rejection Under 35 U.S.C. §103

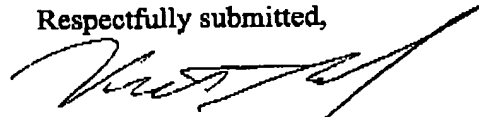
Claims 2, 4 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gabriel. Applicants respectfully submit that at least for the reasons set forth above, because Gabriel fails to teach or suggest independent claims 1 and 20, Gabriel fails to teach or suggest claims 2, 4 and 9 which depend therefrom. Therefore, in the interest of brevity, the merits of the rejection will not be addressed in detail.

Applicants respectfully submit that all outstanding rejections have been addressed and are now either overcome or moot. Applicants further submit that all of the claims remaining in the application are in condition for allowance and early and favorable action is requested.

No fee, other than the extension of time, is believed to be due in connection with the filing of this paper. Nevertheless, if the Commissioner deems any fee to be now or hereafter due, the Commissioner is authorized to charge that fee to Deposit Account No. 19-4709.

Favorable consideration and prompt allowance of this application are respectfully requested. In the event that there are any questions, or should additional information be required, please contact Applicants' attorney at the number listed below.

Respectfully submitted,



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